

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Amendment of Section 73.622(b),
Table of Allotments,
Digital Television Broadcast Stations.
(Hartford, Connecticut)

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MM Docket No. 01-306
RM-10152

REPORT AND ORDER
(Proceeding Terminated)

Adopted: January 7, 2003

Released: January 8, 2003

By the Chief, Media Bureau:

1. At the request of Fox Television Stations, Inc. ("Fox"), licensee of station WNYW(TV), NTSC channel 5, New York, New York, the Commission has before it the Notice of Proposed Rule Making, 16 FCC Rcd 18842(2001), proposing the substitution of DTV channel 31 for DTV channel 5 for station WTIC-TV, Hartford, Connecticut, which is licensed to Tribune Television Corporation ("Tribune"). Tribune filed comments affirming its continuing interest in the channel substitution at Hartford. Connecticut Public Broadcasting, Inc. ("CPBI"), licensee of station WEDH-TV, Hartford, Connecticut, filed comments indicating its support of WTIC-TV's channel change. Outlet Broadcasting Inc. ("Outlet"), licensee of station WVIT, channel 30, New Britain, Connecticut filed untimely comments in opposition to the proposal. Fox, Tribune and CPBI filed reply comments.'

2. Outlet opposes Fox's proposal because it claims that the allotment of DTV channel 31 to Hartford will result in a prohibited increase of interference to analog station WVIT in excess of the Commission's 10 percent limit. Specifically, Outlet states that WVIT is one of the 15 NTSC stations in the United States that are already subject to more than 10 percent interference and cannot be subjected to additional new interference.' Outlet notes that the engineering materials supporting Fox's rulemaking petition recognize that WTIC-TV, operating as proposed on DTV channel 31 from its transmitter site on Rattlesnake Mountain, will result in additional interference to WVIT. Specifically, it states that the proposed use of DTV channel 31 is predicted to cause interference to an additional 1,854 people within WVIT's protected NTSC service area, representing 0.043 percent of the station's baseline Grade B service population of 4,345,134. Outlet cites Section 73.623 (c)(2) of the

¹ In the interest of developing a more complete record in this proceeding, we will consider Outlet's comments and the reply comments filed by Fox, Tribune, and CPBI.

² See FCC Public Notice, *Additional Application Processing Guidelines for Digital Television (DTV)*, released August 10, 1998. Outlet states that WVIT is already predicted to receive interference to 13.2 percent of the population and, as a result, is included on a list of 15 stations in the *Public Notice*, under the heading, "Not Subject to Additional Interference Because Percent Loss is More Than 10 Percent".

Commission's Rules which provides, in pertinent part, that no petition to modify a channel allotment included in the initial DTV Table of Allotments will be accepted unless it demonstrates, among other things, that "no new interference may be caused to any station that already experiences interference to 10 percent or more of its population or that would result in a station receiving interference in excess of 10 percent of its population."

3. Outlet also claims that the extent of the interference that will be caused has been understated by Fox. Outlet argues that the FCC interference models used by Fox do not include areas that are already predicted to receive interference from other NTSC and DTV stations. Outlet submits that an increase in the number of stations predicted to cause interference to a particular station in a specific area increases the probability of actual interference in those pre-existing interference areas. Outlet maintains that it is important to consider this impact of cumulative interference in the case of stations already experiencing more than 10 percent interference. When the pre-existing interference areas are considered in this case, the proposed DTV channel 31 allotment is predicted to cause interference to 3,323 persons within WVIT's protected service contour – almost double the interference when "masking" is not considered. The amount of interference when "masking" is considered, alleges Outlet, when rounded up to the nearest tenth of a percent, would amount to 0.1 percent new interference.

4. In contrast, Fox and Tribune assert that the additional interference would affect less than 0.05 percent of WVIT's protected Grade B service population, and when that figure is rounded down to zero pursuant to the Commission's processing guidelines, no cognizable interference will be caused to WVIT. Fox states that determinations of compliance with the rules are based on the Commission's implementation of the Longley-Rice propagation models, with the result rounded to the nearest tenth of a percent, referencing Public Notice, *Additional Application Processing Guidelines for Digital Television (DTV)*, August 10, 1998, at 8. It also argues that there is no language in the Commission's Rules or processing guidelines exempting the application of the general rule for determining interference in cases such as WVIT's when that station already experiences 10 percent or more interference. It argues that Outlet's interference calculations that include masked "interference" are not relevant, and that there is no basis to find that a "zero interference" policy exists even with respect to those stations already experiencing interference in excess of 10 percent. In any event, Fox states that because relatively little new interference will be caused to WVIT, and that any minor impairment to WVIT's analog service will cease once the DTV transition is complete, grant of the rulemaking proposal will better serve the public interest.

5. In response, Outlet contends that there is no "rounding down" in the case of additional interference caused to stations already experiencing more than 10 percent interference – the fact that the proposed rulemaking will cause any interference at all to WVIT requires denial of the rulemaking petition. Finally, Outlet argues that if the Commission were to consider granting this proposal, it should, pursuant to Section 73.622(g)(1) of the rules, designate the allotment with a "c," which will minimize the potential for interference to WVIT's audio carrier by maintaining the WTIC-DT pilot carrier frequency

5.082138 MHz above the WVIT frequency. It also requests that the Commission require the present and any future operator of DTV channel 31 to maintain a transmitter site substantially collocated with that of WVIT so as to minimize adjacent-channel interference between the two stations.

6. Pursuant to Section 73.623(c)(2), no new interference may be caused to a station such as WVIT, which already experiences interference to 10 percent or more of its Grade B service population. As noted by Fox and Tribune, however, the August 1998 *DTV Processing Guidelines*, which sets forth the procedures for determining the existence of cognizable interference, provides that interference calculations are to be “rounded down” to the closest tenth of a percent in order to determine compliance with interference rules. We have no reason to deviate from that approach in this case. The additional potential interference to WVIT from this rulemaking proposal is less than 0.05 percent (*i.e.*, 0.043), and therefore is not cognizable interference when rounded down to zero. Thus, grant of the rulemaking petition is not prohibited by Section 73.622(c)(2) of the Commission’s Rules. We also reject Outlet’s speculative argument that persons in the existing interference area may now be enjoying interference-free service and may, for the first time, be likely to experience interference from a channel 31 facility. Outlet has provided neither information or data to support this proposition, nor any specific population numbers regarding the interference that exists and which would be increased by the channel 31 proposal. Under the circumstances, we are not persuaded to change our policy and employ a different model for determining interference.

7. Nevertheless, we believe that the facts presented here warrant designating the proposed channel substitution a “c” allotment. We do not believe, however, that it is necessary or appropriate to condition any grant of this proposal on the requirement that the WVIT and WTIC-DT transmitter sites be substantially collocated, as any modification of the WTIC-DT facilities will require an application demonstrating that no additional interference will be caused to WVIT.

8. We believe the public interest would be served by substituting DTV channel 31 for DTV channel 5 for station WTIC-DT, Hartford, Connecticut. DTV channel 31 can be allotted to Hartford, as proposed, in compliance with the principle community coverage requirement of Section 73.625(a) at coordinates 41-42-13N and 72-49-57W. Since the community of Hartford, is located within 400 kilometers of the U.S. – Canadian border, concurrence from the Canadian government has been obtained for this allotment. In addition, we find that this channel is acceptable under the 2 percent criterion for *de minimis* impact that is applied in evaluating requests for modification of initial DTV allotments under Section 73.623(c)(2) for Station WTIC-DT with the following specifications:

State & City	DTV Channel	DTV power (kW)	Antenna HAAT (m)	DTV Service Pop. (thous.)
Connecticut, Hartford	31c	500	492	3641

9. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, **IT IS ORDERED**, That effective February 24, 2003, the DTV Table of Allotments, Section 73.622(b) of the Commission's Rules, **IS AMENDED**, with respect to the community listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Hartford, Connecticut	31c, *32, 33, 46

10. **IT IS FURTHER ORDERED**, That within 45 days of the effective date of this Order, shall submit to the Commission a minor change application for a construction permit (FCC Form 301) specifying DTV Channel 31c in lieu of DTV Channel 5 for station WTIC-DT.

11. **IT IS FURTHER ORDERED**, That this proceeding **IS TERMINATED**

12. For further information concerning this proceeding, contact Pam Blumenthal, Media Bureau, (202) 418-1600.

FEDERAL COMMUNICATIONS COMMISSION

W. Kenneth Ferree
Chief, Media Bureau